

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DONGSHENG HUANG,	§	
	§	
Petitioner,	§	
	§	
VS.	§	CIVIL ACTION NO. H-12-0035
	§	
ADMINISTRATIVE REVIEW BOARD	§	
U.S. DEPARTMENT OF LABOR,	§	
	§	
Respondent.	§	

ORDER

On April 25, 2013, petitioner Dongsheng Huang moved for leave to amend his complaint under Rule 15(a)(2). (Docket Entry No. 48). Huang did not attach a copy of his proposed amended complaint. The respondents, the Administrative Review Board of the U.S. Department of Labor and the U.S. Secretary of Labor, opposed Huang's motion, in part on the basis of futility and in part because Huang had not attached his proposed amended complaint. (Docket Entry No. 54). Huang replied that his proposed amendments were not futile and represented that he would file his proposed amended complaint if this court ordered him to do so. (Docket Entry No. 55).¹

Opposition based on failure to include a proposed amended complaint and on futility are somewhat interrelated. See, e.g., *Sonia Vou Books, LLC v. BAC Home Loan Servicing, LP*, 2011 WL 3438435, at *2 (S.D. Tex. Aug. 5, 2011) (explaining that without the ability to review the proposed amended complaint, “it leaves a district court to speculate as to how . . . seemingly

¹ Because the respondents' deadline to respond to Huang's motion for leave to amend was May 30, 2013, but the respondents filed their response on May 31, 2013, Huang also argued that the respondents' “[l]ate [f]iling shall be rejected.” (Docket Entry No. 55, at 1). This court finds that the de minimis failure to meet the May 30, 2013 deadline does not warrant striking the respondents' response.

redundant facts might amount to a legal claim,’ lending weight to an inference that granting leave to amend is a futile exercise” (alteration in original)). This court finds that it cannot rule on the motion for leave to amend without reviewing Huang’s proposed amended complaint, and Huang has represented that he can “easily” provide his proposed amended complaint to this court. (See Docket Entry No. 55, at 3). Accordingly, Huang must file his proposed amended complaint by **June 7, 2013**.

SIGNED on June 3, 2013, at Houston, Texas.


Lee H. Rosenthal
United States District Judge